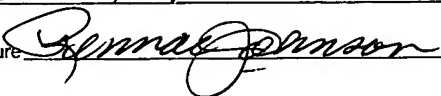



Doc Code: AP:PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) NSN.020.A1	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>January 2, 2008</u></p> <p>Signature <u></u></p> <p>Typed or printed name <u>Rennae Johnson</u></p>		Application Number <b>10/672,941</b>	Filed <b>09/26/2003</b>
		First Named Inventor <b>COSTA-REQUENA</b>	
		Art Unit <b>2154</b>	Examiner <b>Chang, J.</b>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. <b>51,419</b> Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		<p><u></u> Signature</p> <p><b>William B. Ashley</b> Typed or printed name</p> <p><b>952-854-2700</b> Telephone number</p> <p><b>January 2, 2008</b> Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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SERIAL NO. 10/672,941

PATENT APPLICATION

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appellant:	COSTA-REQUENA	Examiner:	Chang, J.
Serial No.:	10/672,941	Group Art Unit:	2154
Filed:	September 26, 2003	Docket No.:	NSN.020.A1
Title:	SYSTEM AND METHOD FOR PROVIDING MEDIA SESSION DESCRIPTORS		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 2, 2008.

By:

Rennae Johnson

**APPELLANT'S STATEMENT IN SUPPORT OF  
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This statement is presented in compliance with the USPTO OG Notice of 12 July 2005 on New Pre-Appeal Brief Conference Pilot Program. Appellant requests a pre-appeal brief conference on the belief that the rejections of record are clearly not proper and without basis. Appellant's request is based upon a clear legal or factual deficiency in the rejections, rather than an interpretation of the claims or the prior art teachings. As such, Appellant believes this request for pre-appeal brief review is appropriate.

Claims 1, 2, 4, 7, 9, 12, 13, 15, 16, 22, 23, 26, 27 and 29-31 are rejected based on 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2003/0236912 by Klemets et al. (hereinafter "Klemets") in view of U.S. Patent No. 7,233,979 to Dickerman et al. (hereinafter "Dickerman") and U.S. Publication No. 2004/0133683 by Keller et al. (hereinafter "Keller"). Claims 17-18, 20 and 21 are rejected based on 35 U.S.C. §103(a) as being unpatentable over Klemets in view of Dickerman and Keller. Dependent Claims 3, 5, 6, 8, 10, 11, 14, 19, 24, 25, 28 and 32 are

rejected based on 35 U.S.C. §103(a) as being unpatentable over Klemets, Dickerman and Keller and further in view of additional references.

While Appellant has multiple issues for appeal, the purpose for submitting this request for review primarily concerns the reliance on Klemets to support each of the §103(a) rejections of independent claims 1, 12, 17, 22, 26, and 30, which are insufficiently supported by the teachings of Klemets. Specifically, Appellant notes that Klemets does not provide any teachings corresponding to Appellant's claimed session description module. The Examiner appears to take the untenable position that the mere disclosure of session descriptor data structures and messages by Klemets sufficiently discloses the functions of a session description module as set forth in Appellants independent claims.

Appellant's independent method claims 1, 26, and 30 each recite, among other features, some variation of communicating a session descriptor data between an application of a terminal and a session descriptor module of the terminal to establish multimedia sessions, wherein the session descriptor module operates on the terminal independently of the application. Similarly, independent claims 12 and 17 each recite, among other things, a terminal that includes a session descriptor module and an application that operate independently of each other and exchange session description data to facilitate establishing multimedia sessions. Finally, independent claim 22 describes a computer readable medium with instructions that cause a terminal's processor to exchange session description data with an independently running application of the terminal.

In each of the rejections of the independent claims, the Examiner has relied on 0032, 0041, and 0097-0139 of Klemets as allegedly corresponding to a session descriptor module that functions as described in Appellant's claims. Paragraph 0032 describes interactions between a client 106 and media server 104, and is silent as to any operations within respective devices. Similarity, paragraph 0041 describes a flow diagram that "illustrates the interaction between the client 106 and the server 104 to initiate a streaming media session," but fails to describe with any specificity the inner workings of the client 106 or server 104. Paragraphs 0097-0139 describes a data structure, and are

irrelevant in showing any communications or functional modules as described in the rejected claims.

Appellant has argued that these host-to-host communications described in Klemets cannot be reasonably relied upon to teach or suggest the inter-device features of Appellant's claims. (*see, e.g.*, Office Action response mailed Sep. 24, 2007, hereinafter the "Office Action Response," p. 10, line 19 to page 12, line 15). The Examiner's response to these arguments is that "page 2, paragraph 0017 of Klemet teaches that one or more computer-readable media (134, fig. 6; page 7, 0081, 0082) store session description module (502, fig. 5, 'description message'), and application is stored on the same terminal (172, 174, fig. 6, 'application programs')." (Advisory Action mailed Oct. 15, 2007, hereinafter the "Advisory Action," page 2, first paragraph). This is consistent with previous assertions by the Examiner that Klemets' description of session description messages and data structures stored on a terminal can somehow be relied upon to show a session descriptor module that operates on the terminal independently of the application. Appellants submit that Klemets only shows messages being passed host-to-host, and does not teach or suggest any inter-terminal messaging by a session description module as set forth in Appellant's claims.

In the Advisory Action, the Examiner further states that "Although session [descriptor] module operating on a terminal independently of a terminal application is obvious in the art, Klemet discloses the limitation (page 5, 0047, 'software...operable with any session description message 502'; 0049-0053, 'MIME type application/vnd.ms.wmshdr.asfv1 identifies...the software of the invention identifies session descriptor, i.e., the header attribute 504 as a program parameters.')." Appellant submits that these statements suggest that the Examiner is disregarding claim language that was added by way of amendment and that was argued specifically by Appellant as distinguishable from Klemets and the other references.

The portions of Klemets referenced by the Examiner are generalized descriptions of "software" that processes SDP messages. Klemets neither teaches nor suggests an independently running session descriptor module that interacts with applications as set forth in Appellants claims. Appellant submits that the sole basis of these rejections can be summed up in the Examiner's statement "session [descriptor] module operating on a

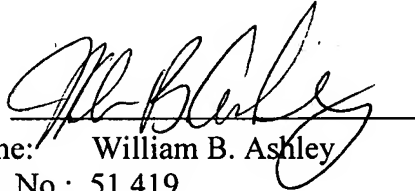
terminal independently of a terminal application is obvious in the art.” As a result, the functionality of the session description module and applications as set forth in Appellant’s claims (e.g., “forming a session descriptor request by the application,” “communicating the session descriptor request from the application to a session descriptor module,” “communicating the session descriptor from the session descriptor module to the application,” etc.) is being summarily dismissed as obvious without the requisite showing that such features are taught or suggested in the art.

Appellant respectfully submits that Klemets clearly fails to teach or suggest each and every element and limitation of independent claims 1, 12, 17, 22, 26, and 30, even in combination with Dickerman and Keller. Consequently there is an omission of at least one essential element required for a proper obviousness-type rejection of independent claims 1, 12, 17, 22, 26, and 30. Such omissions are clear error.

The undersigned is of record and with authority to prosecute the appeal on behalf of the Assignee.

Respectfully submitted,

**HOLLINGSWORTH & FUNK, LLC**  
Attorneys at Law  
8009 34<sup>th</sup> Avenue South, Suite 125  
Minneapolis, MN 55425  
952.854.2700 (tel.)

By:   
Name: William B. Ashley  
Reg. No.: 51,419